

# Notice of Allowability

Application No.

10/082,674

Examiner

James H. Zurita

Applicant(s)

OMOTO ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE and amendment of 10/23/06. EX'S AMOT 1-5-07
2. ☒ The allowed claim(s) is/are 4, 13.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 23 October 2006 has been entered.

### ***Response to Amendment***

On 23 October 2006, applicant amended claim 13.  
Claims 4 and 13 are pending and are allowed.

### ***Examiner's Amendment***

Permission for the Examiner Amendment was given by Mr. Lohr on 4 January 2007. Please amend claim 4 as follows:

4. (currently amended) An electronic mail system according to Claim 13,  
further comprising  
means for executing an application in bench mark mode, and  
bench mark means for preventing the utilization charge from being levied  
for an application executed in bench mark mode for not longer than a

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~~predetermined~~ threshold amount of time by the user desirous of checking the performance of the application.

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

An updated search finds that prior art does not reasonably suggest or teach, the combination of *inter alia*,

- A reception interface operable to receive an application search request,
- checking whether an execution request of any other application is received from the user terminal;
- executing a second application and storing a second [start and end times]

### ***Comparison to closest art***

The closest domestic prior art is Ginter (US 5,892,900). However, as applicant notes in his remarks, Ginter does not disclose claim 13 as amended, which recites that the processing unit is operable to check whether an execution request of any other application is received from the user terminal. It is stated in Applicants' specification that a user interface can include a plurality of icons indicating available applications for execution in the application execution screen (p. 14, lines 11-17). The selection of an icon by the user causes the particular application to be executed, after which the account pending file is opened and the start time is recorded (p. 14, lines 21-23). After the selection of an icon and execution of an associated application, the processor can check to determine whether user has selected other icons, associated with other applications that can be executed in the application execution window, and if so can

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cause the appropriate application(s) to be executed followed by an appropriate start time being entered into the account pending file (p14, lines 23-25). Upon a log out, the account pending file is closed and the amounts for usage of each of the selected applications can be calculated (p, 15, lines 1- 7).

The closest non-patent literature is "Web-based IDE holds much potential", Daniel Mann, Electronic Engineering Times.Manhasset: Aug 4,997, Issue 965, p. 68, 4 pages. Mann discusses benchmarking hardware and software with Java clients and Universal Debugger Interfaces. However, Mann does not reasonably suggest or teach the combination of steps including search requests and selection screen in combination with checking whether an execution request for another application is received and calculating a utilization charge.

The closest foreign patent is JP2006190144A, filed after the priority date of the present application. Again, the reference does not reasonably suggest or teach the combination of steps including search requests and selection screen in combination with checking whether an execution request for another application is received and calculating a utilization charge.

### **Conclusion**

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**James Zurita**  
**Primary Examiner**  
**Art Unit 3625**  
5 January 2007

*James Zurita*  
*Primary Examiner*